

# **Exhibit C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, ET AL.,	)	
	)	
Plaintiffs,	)	
	)	CV No. 20-3010
vs.	)	Washington, D.C.
	)	December 2, 2020
GOOGLE LLC,	)	11:00 a.m.
	)	
Defendant.	)	
_____	)	

TRANSCRIPT OF  
STATUS CONFERENCE VIA TELECONFERENCE PROCEEDINGS  
BEFORE THE HONORABLE AMIT P. MEHTA  
UNITED STATES DISTRICT JUDGE

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Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription



1 we've imposed even additional restrictions in terms of, for  
2 two years after, that these restrictions would remain on  
3 them.

4 So we've done everything we can to try to assuage  
5 any concerns about who these individuals are and what use  
6 they could potentially make of information.

7 Thank you, Your Honor.

8 THE COURT: So let me just pause here for a  
9 moment.

10 We have a number of third parties on the line and  
11 counsel for those third parties. And I'm happy to, if  
12 there's anything anybody would like to raise on this issue,  
13 I would prefer to avoid a lineup of lawyers here that's  
14 going to keep us here all afternoon. But if there's  
15 something discrete any of the counsel from the third parties  
16 wish to raise that hasn't been discussed or that I may not  
17 have considered, I'd be happy to hear from you at this  
18 point.

19 MR. PARKER: Your Honor, this is Rick Parker from  
20 Gibson Dunn. And I am, for efficiency's sake, speaking on  
21 behalf of the eight parties who signed our joint brief, and  
22 I just have a couple of points to make.

23 Let me just reiterate that there are some very  
24 highly sensitive documents here. They may not be the  
25 formula for Coke, but they are what, to use a sports

1 analogy, I would call a playbook. It is future product  
2 plans to compete with the defendant. Or, many of us have  
3 commercial relationships with the defendant, and these would  
4 be documents that say, this is how you negotiate with  
5 Google, this is what your number is. We've got to have  
6 this, we don't have to have that.

7 What I'm suggesting is, these are highly sensitive  
8 documents, they are the playbook, and that is what we are  
9 talking about. And we have no intention of doing anything  
10 other than designating highly confidential documents that  
11 fall into that type of category.

12 The second point I want to make and that  
13 distinguishes *Sysco*, where the issue was market structure  
14 and what the market might look like after a merger. This is  
15 a different ballgame here, where there are -- and we express  
16 no opinion whatsoever on this complaint, but there are  
17 allegations of exclusionary conduct by the defendant against  
18 some of the very people who have produced a lot of documents  
19 here. And the folks I'm speaking to for, Your Honor, have  
20 done nothing other than comply with a subpoena, and are only  
21 here to protect those documents.

22 THE COURT: Mr. Parker, do you think --

23 MR. PARKER: Yeah.

24 THE COURT: Mr. Parker, do you think there's a  
25 tighter definition of "highly confidential information" that

1 could be formulated here that would either get to the narrow  
2 scope of the type of information that you've just  
3 identified? Because I'll say this again, my -- and, again,  
4 I'm not suggesting bad faith on the part of anyone --

5 MR. PARKER: No.

6 THE COURT: -- but, you know, I don't want to be  
7 in a position where 1.3 million of the 1.5 million documents  
8 are being designated as "highly confidential" because it's  
9 just easier to do it that way.

10 MR. PARKER: Your Honor, we are -- as I said, our  
11 interest is a very practical one and it is in protecting our  
12 documents and we would participate in any redefinition or  
13 tighter definition effort that Your Honor would prefer, of  
14 course we would.

15 I would simply say that the subjective, what you  
16 call the subjective definition was the one that was used in  
17 the *Sprint-T-Mobile* matter and it's been used, I believe, in  
18 other cases.

19 And that is my final point here: These two-tier  
20 protective orders, such as what we're talking about here,  
21 happen every day. If you look at Google's papers, page 5  
22 and 6, they go on and on and on about one case after the  
23 other that has done precisely what the DOJ wants to do here.

24 We did it up in -- I was representing *Deutsche*  
25 *Telekom*. And we did in the *Sprint-T-Mobile* matter. And,

1 Your Honor, I'm telling you, I'm wracking my brain, I don't  
2 recall a single problem that counsel, antitrust counsel,  
3 particularly -- if I was in the courtroom, I'd point at  
4 their table and say, particularly of the type of lawyers  
5 that know how to do this. We all know how to do this, and  
6 we can make it work.

7 And I respectfully suggest that Mr. Schmidlein's  
8 parade of horrors on their ability to defend Google to me  
9 is overstated, because --

10 THE COURT: Okay.

11 MR. PARKER: It's done literally every day in the  
12 antitrust world.

13 THE COURT: Okay.

14 MR. PARKER: All right.

15 THE COURT: All right. So here's where I am on  
16 this, and here's what I think we ought to do:

17 I would like the parties to go back to the drawing  
18 board on this definition of "highly confidential  
19 information." I'm just not satisfied with the definition,  
20 I think it's too broad, I think it's too subjective, and  
21 I think it opens us up to -- and I think it's, frankly, in  
22 everyone's interest, to a whole lot of litigation over what  
23 bucket a particular document belongs in.

24 You know, I don't want to be involved in that  
25 litigation; I don't think any of the parties here want to be